

**ORDINANCE NO. 12-59**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA GRANTING AN EXCLUSIVE LICENSE TO COCA-COLA REFRESHMENTS USA, INC., A DELAWARE CORPORATION, D/B/A FLORIDA COCA-COLA BOTTLING COMPANY, FOR A TERM OF FIVE YEARS, COMMENCING ON JULY 1, 2012 AND ENDING ON JUNE 30, 2017, TO PLACE, INSTALL AND OPERATE ITS VENDING MACHINES FOR SOFT DRINKS, JUICES AND BOTTLED WATER AT A MINIMUM OF 63 LOCATIONS WITHIN THE CITY OF HIALEAH PARKS AND RECREATIONAL FACILITIES AND OTHER FACILITIES IN PAYMENT OF AN ANNUAL SPONSORSHIP FEE OF \$25,000, \$10,000 SPECIAL EVENT SPONSORSHIP, A SALES REBATE PROGRAM, 15% COMMISSION RATE PERCENTAGE BASED ON SALES RECEIPTS AS MORE FULLY DESCRIBED IN THE AGREEMENT, AND IN RECEIPT OF OTHER PROMOTIONAL ITEMS IN CONNECTION WITH SPECIAL EVENTS AND PROGRAMS; AND AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO ENTER INTO A BEVERAGE AGREEMENT IN SUBSTANTIALLY THE FORM AS ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "1"; AND PROVIDING FOR TWO SUCCESSIVE ONE-YEAR RENEWALS UPON AGREEMENT OF THE PARTIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, on March 13, 1998, the City entered into a three-year license agreement with Coca-Cola Enterprises, Inc. to place vending machines for soft drinks, juices and bottled water for sale to the public and city employees at various locations on City property; and

**WHEREAS**, the City renewed the license agreement for one year in 2001 and 2002; and

**WHEREAS**, pursuant to Hialeah, Fla., Ordinance 03-60 (June 27, 2003), the City entered into a license and sponsorship agreement with Coca-Cola Enterprises, Inc. for five years, with five successive annual renewals; and

**WHEREAS**, it is in the best interest of the City to enter into a new beverage agreement with Coca-Cola based on its continuing successful and cooperative relationship with the City for the past 12 years.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

**Section 2:** The Mayor and the City Council of the City of Hialeah, Florida hereby grant an exclusive license to Coca-Cola Refreshments USA, Inc., a Delaware corporation, doing business as The Florida Coca-Cola Bottling Company, for a term of five years, commencing on July 1, 2012 and ending on June 30, 2017, to place, install and operate its vending machines for soft drinks, juices and bottled water at a minimum of 63 locations within City of Hialeah parks and recreational facilities and other facilities, in payment of an annual sponsorship fee of \$25,000, \$10,000 special event sponsorship, a sales rebate program, 15% commission rate percentage based on sales receipts as more fully described in the agreement, and in receipt of promotional items in connection with special events and programs.

**Section 3:** The City Council of the City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to enter into a

beverage agreement in substantially the form as attached hereto and made a part hereof as Exhibit "1".

**Section 4:** The City of Hialeah, Florida further provides that the license agreement will allow two successive one-renewals based on the agreement of the City and the licensee.

**Section 5: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6: Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 7: Severability Clause.**

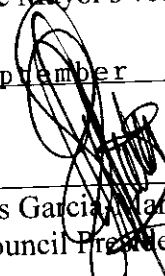
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 8: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

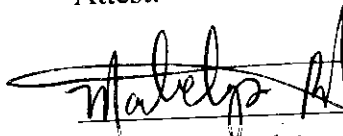
PASSED and ADOPTED this 25 day of September, 2012.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
Isis Garcia Martinez  
Council President

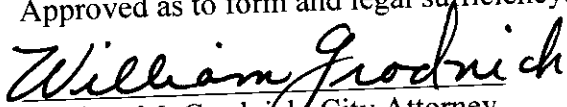
Attest:

Approved on this 26 day of September, 2012.

  
Marbelys Rubio, Acting City Clerk

  
Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

  
William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with  
Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente,  
Garcia-Martinez, Gonzalez, Hernandez and Lozano voting  
"Yes".